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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Seward Media Partners, LLC	)	File No.: EB-FIELDWR-13-00010002
Licensee of KSEW (AM)	)	
	)	NOV No.: V201332780026
Seward, Alaska	)	
	)	Facility ID: 72209
	)	

**NOTICE OF VIOLATION**

**Released: August 13, 2013**

By the Resident Agent, Anchorage Resident Agent Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Seward Media Partners, LLC, (SMP) licensee of radio station KSEW (AM) with a community of service in Seward, Alaska. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On June 17, 2013 and again on June 18, 2013, an agent of the Enforcement Bureau's Anchorage Office inspected KSEW transmission facilities at an expired authorized location under a station temporary authority (STA),<sup>3</sup> the location authorized on the KSEW license, and the designated KSEW main studio, all in Seward, AK. The Anchorage agent observed the following violations:

- a. 47 C.F.R. § 11.15: "The EAS Operating Handbook states in summary form the actions to be taken by personnel at EAS Participant facilities upon receipt of an EAN, an EAT, tests of State and Local Area alerts. A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating actions." The main studio inspection of June 18, 2013, found no EAS Operating Handbook.
- b. 47 C.F.R. § 73.1125(a): "... each AM, FM and TV broadcast station shall maintain a main studio at one of the following locations: (1) Within the station's community of license; (2) At any location within the principal community contour of any AM, FM or TV broadcast station licensed to the station's community of license; or (3) Within twenty-five miles from the reference coordinates of the center of its community of license..." "A station must equip the main studio with production and transmission facilities that meet applicable standards, maintain continuous

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

<sup>3</sup> See BSTA-20130417AAT, STA, granted 4/22/2013, expired May 22, 2013.

program transmission capability, and maintain a meaningful management and staff presence.”<sup>4</sup> The Commission has defined a minimally acceptable “meaningful presence” as full-time managerial and full-time staff personnel.<sup>5</sup> The main studio inspection of June 18, 2013, found no equipment available for KSEW operations, nor a meaningful presence, having only a volunteer staff member on premise.

- c. 47 C.F.R. § 73.1230(a): “The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter; (b) Posting of the station license and any other instruments of authorization shall be done by affixing them to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible.” The main studio inspection of June 18, 2013, found no documents of any instrument of authorization posted, or in a binder, available for inspection for KSEW operations.
- d. 47 C.F.R. § 73.1840(a): “Any log required to be kept by station licensees shall be retained by them for a period of 2 years.” During the main studio inspection of June 18, 2013, the station representative could produce no records for the station’s operation (equipment, transmitter, calibrations, or EAS, etc.) for the prior two years.
- e. 47 C.F.R. § 73.1870(a): “The licensee of each AM, FM, TV or Class A TV broadcast station must designate a person to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another person as the acting chief operator on a temporary basis. . . . (b)(3) The designation of the chief operator must be in writing with a copy of the designation posted with the station license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files.” During the main studio inspection of June 18, 2013, the representative could not produce a written document designating a chief operator.
- f. 47 C.F.R. § 73.3526(a): *Responsibility to maintain a file.* “(2) Every permittee or licensee of an . . . AM . . . station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(10) and paragraph (e)(13) of this section. In addition, every permittee or licensee of a commercial . . . AM . . . station shall maintain for public inspection a file containing the material, relating to that station, describe in paragraphs (e)(12) and (e)(14) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.” At the main studio inspection of June 18, 2013, the representative could not produce a complete public inspection file. The representative however did produce a plastic portable file cabinet with approximately 25 green file folders

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<sup>4</sup> *Main Studio and Program Origination Rules*, Memorandum Opinion and Order, 3 FCC Rcd 5024, 5026 (1988).

<sup>5</sup> *Jones Eastern of the Outer Banks, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 3615, 3616 (1991), *clarified* 7 FCC Rcd 6800 (1992).

of which only one folder marked for and had documents/applications incorporated for KSEW.

- g. 47 C.F.R. § 73.3598(a): *Period of construction*. “...each original construction permit for the construction of a new ...AM... station, or to make changes in such existing stations, shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed.” At the site inspection of the location authorized on the KSEW license, on June 17, 2013, the agent observed that no facilities were constructed.<sup>6</sup>
- h. 47 C.F.R. § 73.1350(a): “Each licensee is responsible for maintaining and operating its broadcast station in a manner which complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization.” At the site inspection of the location authorized on the KSEW license, on June 17, 2013, the agent observed that no facilities were constructed.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>7</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Seward Media Partners, LLC, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>8</sup>

5. In accordance with Section 1.16 of the Rules, we direct Seward Media Partners, LLC, to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Seward Media Partners, LLC, with personal knowledge of the representations provided in Seward Media Partners, LLC, response, verifying the truth and accuracy of the information therein,<sup>9</sup> and confirming that all of the information requested by this Notice which is in

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<sup>6</sup> See File No. BL-19981211AG, granted March 29, 1999, and File No. BR-20050902ABL, granted January 26, 2006. The KSEW license authorizes construction at the following coordinates: 60° 05’ 27” N, 149° 20’ 20” W (NAD 27).

<sup>7</sup> 47 U.S.C. § 308(b).

<sup>8</sup> 47 C.F.R. § 1.89(c).

<sup>9</sup> Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the

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the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>10</sup>

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Anchorage Resident Agent Office  
PO Box 231949  
Anchorage, AK 99523-1949

7. This Notice shall be sent to Seward Media Partners, LLC, at its address of record.

8. The Privacy Act of 1974<sup>11</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David J. Charlton  
Resident Agent  
Anchorage Resident Agent Office  
Western Region  
Enforcement Bureau

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declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>10</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

<sup>11</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).